

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CHERYL KATER and SUZIE KELLY,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

CHURCHILL DOWNS INCORPORATED, a
Kentucky corporation, and BIG FISH GAMES,
INC., a Washington corporation.

Defendants.

MANASA THIMMEGOWDA, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

BIG FISH GAMES, INC., a Washington
corporation; ARISTOCRAT TECHNOLOGIES
INC., a Nevada corporation; ARISTOCRAT
LEISURE LIMITED, an Australian corporation;
and CHURCHILL DOWNS INCORPORATED,
a Kentucky corporation,

Defendants.

No. 15-cv-00612-RSL

**REPLY IN SUPPORT OF FINAL
APPROVAL**

Hearing Date: February 11, 2021

No. 19-cv-00199-RSL

**REPLY IN SUPPORT OF FINAL
APPROVAL**

Hearing Date: February 11, 2021

SEAN WILSON, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

PLAYTIKA LTD, an Israeli limited company,
and CAESARS INTERACTIVE
ENTERTAINMENT, LLC, a Delaware limited
liability company,

Defendants.

SEAN WILSON, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

HUUUGE, INC., a Delaware corporation,

Defendant.

No. 18-cv-5277-RSL

**REPLY IN SUPPORT OF FINAL
APPROVAL**

Hearing Date: February 11, 2021

No. 18-cv-05276-RSL

**REPLY IN SUPPORT OF FINAL
APPROVAL**

Hearing Date: February 11, 2021

ARGUMENT

With the deadlines for claims, exclusions, and objections now in the rear-view mirror, Class Counsel are pleased to report that all three settlements in the above-captioned cases are primed for final approval. The response from the settlement classes has been overwhelmingly favorable: participation rates were robust; exclusions were de minimis; and balanced against nearly 100,000 claims, just a single potential objection was filed—a letter from a Class Member which, as described below, is irrelevant to the final approval analysis. Further, Judge Layn R. Phillips (Fmr.) of Phillips ADR has been empowered to resolve any class member challenges regarding Final Claims Determinations.

The Court should grant Final Approval.

I. The Response From The Settlement Classes Has Been Overwhelmingly Favorable.

In the *Big Fish* settlement, more than 70,000 claims were timely submitted, reflecting an Adjusted Claims Rate of approximately 34.6%.^{1/2} Just ten (10) Class Members timely requested exclusion, and just one (1) Class Member filed a potential objection. *See* Logan Decl. ¶¶ 5-6. Class Counsel and other Edelson PC employees have discussed the settlement with Class Members in more than 10,000 emails and/or telephone calls, and the reaction of these Class Members has been overwhelmingly favorable. *See id.* ¶ 7.

As noted above, just one Class Member in the *Big Fish* settlement filed a potential objection. *See Kater*, No. 15-cv-612, Dkt. 272 (Sealed Letter from Class Member). In a letter

¹ Because Class Members generally play the Apps anonymously, and because Class Members often have multiple App accounts, it would be difficult if not impossible to determine a traditional “claims rate.” Nor, given the wide disparity in Lifetime Spending Amount amongst different Class Members, would that figure be particularly useful here. So in lieu of a traditional claims rate, these Settlements should be assessed against “Adjusted Claims Rates,” which divide the total *claimed* Lifetime Spending Amounts (*i.e.*, total monetary participation) by the total *at-issue* Lifetime Spending Amounts (*i.e.*, total alleged at-issue losses).

² *See* Declaration of Todd Logan (“Logan Decl.”) ¶¶ 3-4. The timely submitted claims in the *Big Fish* settlement are associated with approximately \$374.4 million in Lifetime Spending Amount. *See id.* ¶ 3. The total Lifetime Spending Amount of the Settlement Class is approximately \$1.08 billion. *See id.* ¶ 4. The Adjusted Claims Rate is calculated by dividing the former figure by the latter, equaling approximately 34.6%.

1 mailed to the Court, Class Member [REDACTED] described being frustrated with the settlement
2 process, among other reasons because he was struggling to determine the “DRP” versus “Non-
3 DRP” status of the claim(s) associated with each of his three (3) Big Fish Games accounts. *Id.*
4 The letter also disclosed extremely sensitive personal information, [REDACTED]
5 [REDACTED], and consequently was sealed by the Court. *Id.*

6 After Class Counsel received a copy of [REDACTED] letter, they reached out to him directly.
7 Class Counsel promptly resolved [REDACTED] concerns, including by answering his questions
8 about the settlement process and by obtaining a determination from the Class Administrator that
9 [REDACTED] claims are “Non-DRP.” *See* Logan Decl. ¶ 6. Subsequently, on January 1, 2021, [REDACTED]
10 [REDACTED] withdrew his objection. *See id.*; Ex. 1 to Logan Decl. filed in the *Kater* and *Thimmegowda*
11 actions (Letter from [REDACTED]) (Class Counsel “talked me through all my concerns” and “I
12 no longer have any issues with the proceedings moving forward and I no longer wish to object
13 anymore.”). To be clear, [REDACTED] never objected to substantive fairness of the settlement; he
14 simply sought—and promptly received from Class Counsel—clarity on the status of his claim.
15 Moreover, to the extent that other Class Members raise any concerns similar regarding the status,
16 amount, or validity of their claim, Judge Layn R. Phillips (Fmr.) of Phillips ADR is now
17 empowered to make all Final Claims Determinations.

18 In the *Playtika* settlement, more than 11,000 claims were timely submitted, reflecting an
19 Adjusted Claims Rate of approximately 23.9%.³ Just one (1) Class Member requested exclusion,
20 and no objections were ever filed. *See* Logan Decl. ¶¶ 10-11. Class Counsel and other Edelson
21 PC employees have discussed the settlement with Class Members in more than 1,000 emails
22 and/or telephone calls, and the reaction of these Class Members has been overwhelmingly
23 favorable. *See id.* ¶ 12.

24
25 ³ *See* Logan Decl. ¶¶ 8-9. The timely submitted claims in the *Playtika* settlement are
26 associated with approximately \$35.5 million in Lifetime Spending Amount. *See id.* ¶ 8. The total
27 Lifetime Spending Amount of the Settlement Class is approximately \$148.2 million. *See id.* ¶ 9.
The Adjusted Claims Rate is calculated by dividing the former figure by the latter, equaling
approximately 23.9%.

1 In the *Huuuge* settlement, more than 17,000 claims were timely submitted, reflecting an
 2 Adjusted Claims Rate of approximately 15.4%.⁴ Just two (2) individuals requested exclusion,
 3 and no objections were ever filed. *See id.* ¶¶ 15-16. Class Counsel and other Edelson PC
 4 employees have discussed the settlement with Class Members in more than 1,000 emails and/or
 5 telephone calls, and the reaction of these Class Members has been overwhelmingly favorable.
 6 *See id.* ¶ 17.

7 **II. The Court Should Grant Final Approval.**

8 Because the claims process was a resounding success and there are no impediments to
 9 final approval, the Court should grant Final Approval in these cases. For the Court's
 10 convenience, Class Counsel have attached to this filing [Revised Proposed] Final Approval
 11 Orders, which account for two developments since Class Counsel's original filing of final
 12 approval papers. *First*, the [Revised Proposed] Final Approval Orders include final information
 13 as to objections and exclusions, including by identifying each of the individuals who validly
 14 requested exclusion and consequently will not be bound by the settlements or the final approval
 15 orders. *Second*, the [Revised Proposed] Final Approval Orders make clear that, pursuant to and
 16 continuing after the Court's entry of final approval in these cases, Judge Layn R. Phillips (Fmr.)
 17 of Phillips ADR is and will be empowered to make all Final Claims Determinations.

18 **CONCLUSION**

19 The Court should grant final approval.

20
 21 DATED this 4th day of February, 2021.

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 25 ⁴ See Logan Decl. ¶¶ 13-14. The timely submitted claims in the *Huuuge* settlement are
 26 associated with approximately \$3.2 million in Lifetime Spending Amount. *See id.* ¶ 13. The total
 27 Lifetime Spending Amount of the Settlement Class is approximately \$20.7 million. *See id.* ¶ 14.
 The Adjusted Claims Rate is calculated by dividing the former figure by the latter, equaling
 approximately 15.4%.

Respectfully submitted,

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